

01- *R*-0052

Entered - 09/14/00 - sb
CL00L0558 - DIANNE C. MITCHELL

CLAIM OF: **EUGENE C. GILLESPIE**
3825 Peachtree Dunwoody Road
Atlanta, Georgia 30342

For damages alleged to have been sustained as a result of property damage during installation of fiber optic cable in July and August, 2000 at 3825 Peachtree Dunwoody Road.

THIS ADVERSED REPORT IS APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0558

Date: December 12, 2000

Claimant /Victim EUGENE C. GILLESPIE

BY: (Atty)(Ins. Co.) _____

Address: 3825 Peachtree Dunwoody Road, Atlanta, Georgia 30342

Subrogation: _____ Claim for Property damage \$ not stated Bodily Injury \$ _____

Date of Notice: 09/06/00 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 07/00 - 08/00 Place: 3825 Peachtree Dunwoody Road

Department None Division: _____

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges that his property was damaged during the installation of fiber optic cable. The investigation determined that this work was performed by a private company, North Star Communications, who has repaired the damages to the claimant's property to his satisfaction.

INVESTIGATION:

Statements: City employee _____ Claimant X Others _____ Written _____ Oral X

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report _____ Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental _____ Ministerial _____

Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____

City not involved X Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,



INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____

Claims Manager:  Concur/date 12-13-00

Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: Aug 30, 2000

SEP - 6

09-06-00P06:15 RCVD

Dear Municipal Clerk:

MUNICIPAL CLERK

ENTERED - 9-14-00 - SB
00L0558 - DIANNE MITCHELL

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ _____ property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: July - Aug 200 2. Time of Incident: _____ 3. Police called: _____
(month/day/year) Yes No

4. Location of incident (including street address): 3825 Peachtree Dunwoody Road

5. Name of your insurance company: Nationwide Policy No. _____

6. State what and how incident occurred: (SEE ATTACHED)

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Signature of Claimant

Eugene C. Gillespie

(Print Claimant's Name)

3825 Peachtree Dunwoody Rd

(Address)

Atlanta GA 30342

(City, State and Zip Code)

4-505-1011 x118

(Work Number)

4-261-3732

(Home Number)

August 30, 2000

Council of the City of Atlanta
Municipal Clerk
City Hall
55 Trinity Avenue, S. W.
Atlanta, GA 30355

Dear Municipal Clerk:

Attached is my Claim for Damages that was recently sent to me regarding my property at 3825 Peachtree Dunwoody Rd., Atlanta, GA 30342. Also included are pictures of the damage (12-ft x 4-ft sink hole and root destruction to a 65 year old Oak tree) that has occurred to my front yard, due to the installation of the fiber optic lines currently being contracted out to North Star communications.

I have been in contact with Mr. Scott Riding and Mr. Richard Franklin at the Public Works Department of the City as well as Ms. Diane Mitchell from the legal department of the City. From these conversations, I was sent directly to Ms. Jackie Temple at North Star Communication who in turn forwarded me over to a Ms. Lorraine Rosatto, also from North Star Communications.

Ms. Rosatto assured me, that North Star would go out to the property and inspect my verbal complaint. Ms. Rosatto has also stated that the property will be restored to its original state if not better once the project is completed. However, my complaint to both the City of Atlanta and North Star Communications is not just to the existing damage, but also the following points that presently cannot be measured:

- The (12-ft x 4-ft) sinkhole and current rains have washed away a significant percentage of the front apron of my yard, including the sod and soil. I had this yard complete re-landscaped with Bermuda sod and enriched manure and soil. The sinkhole has been filled twice with red clay dirt, trash, rocks, broken tree branches and roots from the damaged tree, etc. Again with each rain storm the hole reemerges leading me to believe that the infrastructure of the hole is not being addressed and will continue to be a problem in the future as rains wash away this area.
- There is also a 60 + year old Oak tree that sits inside my yard approximately 7-8 feet from the actual street. During the process of digging and laying the lines, the machinery, weighing several tons, sat on top of the root system of this tree for over a week, sending the tree into shock and the immediate process of losing its leaves and branches. After the most recent rains, I have viewed the roots of the tree where they have been cut and disposed of into the sinkhole. I am not certain as to the extended damage that this large, old Oak has incurred and really will not be able to measure it until next spring when the foliage would normally return.

Page 2 cont.
Municipal Clerk

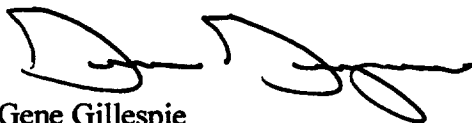
- My home is located at a point on Peachtree Dunwoody that has a sharp decline (hill) in the road. With any small amount of rains that occur, or wind currents from the traffic going down P'Tree Dunwoody, the water and debris from the road and all the development sites currently under construction in that area, travel down Peachtree Dunwoody and directly into my driveway and front yard. I have attempted to place large granite stones and concrete edging to divert the heavy stream of water and debris, but to no avail. I have called to request assistance from the City with this inconvenience and was informed that I should purchase granite edging from the City for the front of the yard.

During a recent inspection by the city surveyor, I was informed that this process would not deter the water and debris from P'Tree Dunwoody Road from still coming into my driveway and ultimately into the yard, since the point of entry is through the entrance off of Peachtree Dunwoody into my driveway. Coupled with the fiber optic lines being laid on my side of the street, my yard is quickly becoming a trash and mud basin for the work being completed above my property.

I will continue to document through pictures the work in process as well as the damage being incurred. Once this project is completed, I will submit my final Claim and estimates based on the condition of the repairs and replacement that the City or North Star Communications plan to enact. I would also ask for your consideration on the other 3 points that I have highlighted, as preventative measure now, eliminate excessive cost for maintenance and repairs in the future.

My sincere appreciation for your time and consideration to this matter. If you have any further questions, my work and home number are listed on the Claim form and I will be happy to answer your questions.

Sincerely,



Gene Gillespie
Homeowner
3825 Peachtree Dunwoody Rd
Atlanta, GA 30342

01-R-0052